HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 91 (M/S) of 2006

With

Misc. Application No. 964/06

Dhyan Singh S/o Sri Jodh Singh R/o Village and P.O
Adhaura, Block Okhalkanda,
Tehsil, District Nainital. .....Petitioner

Vs

1. District Magistrate, Nainital.
2. District Panchayat Raj Officer, Nainital.
3. Block Development Officer, Block Okhalkanda,
   Tehsil Dhari, District- Nainital.
4. Assistant Development Officer, (Panchayat)
   Block Okhalkanda, District- Nainital. .....Respondents

Sri Manoj Tiwari learned counsel for the petitioner.
Sri Atul Bansal learned brief holder for the State.

Dated:- 15-02-2006

Hon'ble B.S. Verma, J.

Heard Sri Manoj Tiwari learned counsel for the petitioner and Sri Atul Bansal learned brief holder for the State.

Petitioner has filed the present writ petition to issue a writ, order or direction in the nature of certiorari for quashing the orders dated 24-6-2005 passed by respondent No.3 and the order dated 4-8-2005 passed by respondent No.1 (Annexure No.5 and Annexure No.-11) respectively to this writ petition.

By the impugned order, Annexure-11 to the writ petition, the financial and administrative powers of the petitioner have been ceased out by the Collector i.e. respondent No.1.

According to the petitioner that he had already replied the charges levelled against him within stipulated time from issuing of the date of the charge sheet.

In view of the proviso of Section 95(1)(g) it is apparently clear that once financial and administrative powers of the Pradhan are ceased in accordance with the aforesaid provisions, an order to restore the said powers can only be passed by the District Magistrate after a final enquiry report is obtained on the basis whereof the District Magistrate is satisfied that the charges leveled against the Pradhan are not made out and he specifically exonerates the Pradhan of the charges before that it clear from the provision before taking decision by the Collector, the financial and administrative powers cannot be restored in favour of the petitioner.

In view of the said proviso, the writ petition is not maintainable at this stage.

In view of the above the writ petition is dismissed in limine.

However the respondent No.1 i.e Collector is directed to take final decision in the matter according to the U.P. Panchayat Raj Act, 1947(Removal of Pradhan and Up- Pradhan) as applicable to Uttaranchal State also within a stipulated period of four weeks after production of the certified copy of the order.

(B.S. Verma, J)

Dated: - 15-2-2006